

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Regarding: Charles O. Townley  
Serial No. 10/758,455  
Filing Date 01/15/2004  
Docket No. THUMB-604DIV  
MODULAR BASAL THUMB JOINT IMPLANT

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Corrected Brief by Replacement Brief Section

Attention: On Appeal from Group Art Unit 3738  
Primary Examiner Brian E. Pellegrino  
Patent Appeal Center Specialist Everett R. Williams

Commissioner for Patents  
Alexandria, VA 22313-1450

I certify that this correspondence is facsimile-transmitted  
to the Patent and Trademark Office (571 273 8300) on 12 JUN 2008:

Christopher John Rudy: Christopher John Rudy 6/12/2008.

Sir:

Thank you for the 06/09/2008 Notification of Non-Compliant  
Appeal Brief (37 CFR 41.37). In reply, although claim 40 was  
summarized in the Brief for Appellant filed on February 8, 2008,  
please enter this corrected brief and consider it as part of the  
Brief for Appellant in support of the patentability of the claims  
on appeal. Only a replacement summary of claimed subject matter  
section is required by MPEP 1205.03(B), which follows:

Summary of Claimed Subject Matter

With respect to independent claim 21, the invention resides  
in a modular basal thumb joint implant (title, page 3, lines 2-3  
and 13-22, page 6, line 6, page 7, lines 4 and 8-11; FIGS. 1-13  
including 4-9, Nos. 10, 20 and 100). It has a head of a size and  
having an articular surface for mounting and articulating with a  
correspondingly concavely prepared surface of trapezium bone  
stock, and a stem of a size for intramedullary insertion in  
metacarpal bone stock, with the head attachable to the stem (page  
3, lines 16-22, page 7, lines 4 and 8-11, page 8, lines 1-4, 6-9,  
12 and 14-15, page 9, lines 6 and 10-12, from page 9, line 20, to  
page 10, line 6; FIGS. 4-9 and 13, Nos. 9, 10, 15, 20, 25, 100).  
Claim 21 also requires that the head have a single, smooth,  
generally hemispherical, medio-proximally directed articulating  
surface (page 3, lines 3-4, 14 and 16-17, page 7, lines 1-2 and  
12-16, page 10, lines 9 and 12-13; FIGS. 1, 4-9, 13, Nos. 10, 11  
and 31) and a generally abrupt, distally directed, planar end to  
the head which defines an end to the articulating surface and has  
a center (page 3, lines 5 and 18, page 7, lines 15-18, page 9,  
line 16; FIGS. 1-4, 7, 9-13, Nos. 10 and 12) with the  
articulating surface continuous as to its sphericity and

JUN 12 2008

Townley, 10/758455

Corrected Brief, p. 2

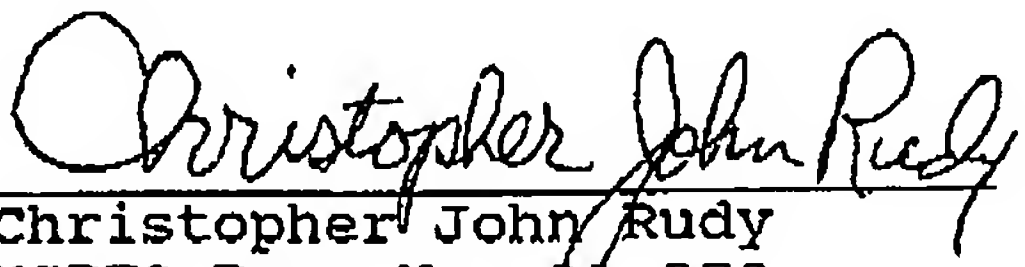
uninterrupted up to the end of the articulating surface (page 3, lines 3-4, 14 and 16-17, page 7, lines 12-13 and 15, page 10, lines 9 and 12-13; FIGS. 1-4 and 9-13, Nos. 10, 11 and 31). It also requires that the stem, when attached to the head, projects from the head along an axis, which arises from the generally planar end to the head (page 3, lines 6-7 and 14-16, page 8, lines 12 and 20-14; FIGS. 1, 4, 7, 9-10, 12-13, Nos. 12, 20 and 21) plus has feature(s) as follows:

- A) a general angle of projection from the head that is acute in relation to the generally planar end to the head (page 3, lines 7-9 and 14-16, page 8, lines 20-21; FIGS. 1, 4, 7, 10, 12 and 13, Nos. 12, 20 and 21);
- B) a flanged cross-sectional stem profile, which, when taken in cross-section perpendicularly to the stem, is in a tri-flange shape, with three flanges without notches extending distally on the stem (page 3, lines 10 and 14-16, from page 8, line 24 to page 9, line 3, page 9, lines 13-14, page 11, line 7, page 12, lines 6-7; FIGS. 1, 2, 4, 5, 7, 10, 12 and 13, Nos. 20, 21, 51, 58);
- C) an inwardly curved stem (page 3, lines 11 and 14-16, page 4, lines 4-13, page 9, lines 14-15; FIGS. 1, 4, 7, 10, 12 and 13, Nos. 10 and 20; and/or
- D) an eccentric head site for the stem, which is offset from the center of the generally planar end of the head (page 3, lines 12 and 14-16, page 4, lines 4-6, page 9, lines 15-16; FIGS. 1, 4, 12 and 13, Nos. 10 and 20).

With respect to independent claim 40, the invention also resides in a modular basal thumb joint implant (title, page 3, lines 2-3 and 13-22, page 6, line 6, page 7, lines 4 and 8-11; FIGS. 1-13 including 4-9, Nos. 10, 20 and 100). It includes a head of a size and having an articular surface for mounting and articulating with a correspondingly concavely prepared surface of trapezium bone stock, and a stem of a size for intramedullary insertion in metacarpal bone stock, with the head attachable to the stem (page 3, lines 16-22, page 7, lines 4 and 8-11, page 8, lines 1-4, 6-9, 12 and 14-15, page 9, lines 6 and 10-12, from page 9, line 20, to page 10, line 1; FIGS. 4-9 and 13, Nos. 9, 10, 20, 100). It has head and stem modularity such that the head is removably attachable to the stem (page 3, lines 16-22, page 7, lines 4 and 8-11, page 8, lines 6-9, from page 9, line 20, to page 10, line 6; FIGS. 4-9 and 13, Nos. 9, 10, 15, 20, 25, 100).

Respectfully,

Dated: June 12, 2008 A.D.

  
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